

**UNITED STATES FEDERAL DISTRICT COURT**  
**WESTERN DISTRICT OF WASHINGTON**

DR. RANDALL J.  
STRANDQUIST, an individual,

Plaintiff,

v.

WASHINGTON STATE  
DEPARTMENT OF HEALTH  
AND HUMAN SERVICES, a  
Washington State Governmental  
Agency, & WENDY LONG, an  
individual,

Defendants.

**CASE NO.**

**COMPLAINT**

**JURY DEMANDED**

**PARTIES**

1. Plaintiff Dr. Randall J. Strandquist is a resident of the State of Washington.
2. Defendant Washington State Department of Health and Human Services (the “Department”) is a governmental agency of the State of Washington.
3. Defendant Wendy Long is a Deputy Director of the Department, and an employer, officer, vice principal and/or agent for purposes of Wash. Rev. Code § 49.52.070; upon information and belief she took the acts and omissions complained of herein to advance her career and/or for the benefit of her marital community.

**JURISDICTION AND VENUE**

4. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 & 1343. Venue is proper in this Court under 28 U.S.C. § 1391 where the Department is headquartered within this District and, independently, where a substantial part of the events or omissions giving rise to the claim occurred in this District.
5. Dr. Strandquist received a Right to Sue letter from the EEOC on September 15, 2022.

- 1       6.     In compliance with Wash. Rev. Code § 4.92.100, Dr. Strandquist  
2       submitted a Tort Claim with the Washington State Office of Risk  
3       Management on or about November 18, 2022, tolling the limitations  
4       period from his Right to Sue letter pursuant to Wash. Rev. Code §  
5       4.92.110; sixty days have passed since that submission.  
6

7                               **FACTS**

- 8       7.     Dr. Strandquist was employed by the Department for seventeen  
9       years, most recently as Director of Psychology at Eastern State  
10      Hospital (“ESH”), until wrongfully terminated on or about October  
11      21, 2021.  
12  
13      8.     In August 2021, the Department unilaterally imposed a new  
14      condition of employment, vaccination against COVID-19.  
15  
16      9.     The Department purported to allow exemptions based on sincerely  
17      held religious beliefs.  
18  
19      10.    Dr. Strandquist completed and submitted a request for religious  
20      exemption on August 30, 2021.  
21  
22      11.    On September 8, 2021, less than a week after his application,  
23      Plaintiff was notified by Defendant Long that the Department  
24      acknowledged that Plaintiff had a sincerely held religious belief  
which prevented him from receiving the COVID-19 vaccination.

- 1 12. Despite that determination, the Department also notified him that it  
2 refused to provide any reasonable accommodation to Plaintiff.
- 3 13. The Department offered only a Management Analyst 5 reassignment  
4 for which Dr. Strandquist was not even qualified, and which was 10  
5 steps lower on the State employee pay scale than his Director  
6 position.
- 7 14. The Department cannot articulate any undue hardship in providing  
8 a reasonable accommodation to Dr. Strandquist.
- 9 15. Independently, the Department could not, and cannot, articulate a  
10 relative undue hardship in accommodating Dr. Strandquist, as  
11 balanced against the already critically low staffing levels at Eastern  
12 State Hospital.
- 13 16. In an attempt to begin an interactive dialogue with the Department  
14 about his threatened termination, a dialogue which Defendants had  
15 failed to initiate, Dr. Strandquist sent a letter from his attorney,  
16 Heather Barden, to Defendant Long and Meredith Retlin, DSHS, on  
17 October 7, 2021. Defendants ignored the letter and never responded  
18 or engaged in an interactive dialogue with Plaintiff regarding his  
19 threatened termination.  
20  
21  
22  
23  
24

1 17. The letter specifically sought a discussion as to what burden the  
2 Department was claiming in refusing to accommodate Dr.  
3 Strandquist.

4 18. The vaccines which the Department sought to compel Dr.  
5 Strandquist to take were experimental vaccines developed in 2020.  
6

7 19. These vaccines were developed quickly, primarily for the purpose  
8 of protecting those who were at highest risk of getting seriously ill  
9 from COVID-19, especially the elderly and those with multiple co-  
10 morbidities.

11 20. Pfizer has admitted that its vaccine was not tested for efficacy at  
12 preventing transmission or infection.  
13

14 21. Without full disclosure to the public, including Dr. Strandquist, it  
15 was known, prior to October 18, 2021, that the vaccines did not stop  
16 the transmission of COVID-19. Attached as Exhibit A is a true and  
17 correct copy of an email between state and county health officials  
18 discussing breakthrough cases traced to a staff party from July 2021.  
19 Attached as Exhibit B is a true and correct copy of an email chain  
20 between state and county officials discussing the “concerning” trend  
21 of escalating rates of reinfection of vaccinated individuals in July  
22 2021. Attached as Exhibit C is a true and correct copy of an email  
23  
24

1 from Jeff Duchin, Professor of Medicine at the University of  
2 Washington and Chief, Communicable Disease Epidemiology and  
3 Immunization Section, Public Health, Seattle and King County,  
4 regarding ability of vaccinated to both reinfect and spread to others.

5  
6 22. It is now universally admitted that the vaccinated can contract and  
7 transmit COVID-19.

8 23. In Washington State, from July 17, 2021, to July 9, 2022, alone,  
9 there were 636,766 “breakthrough cases” of fully vaccinated  
10 individuals contracting COVID-19.

11  
12 24. Nevertheless, on August 9, 2021, Governor Inslee issued  
13 Proclamation 21-14 (with amendments Proclamation 21-14.1 and  
14 21-14.2, the “Proclamation”), which purported to mandate COVID-  
15 19 vaccination for state workers.

16 25. Proclamation 21-14.2 provided, however, that “State  
17 agencies . . . *must* provide any . . . sincerely held religious belief  
18 accommodations to the requirements of this Order that are required  
19 under . . . Title VII of the Civil Rights act of 1964 (Title VII), the  
20 Washington Law Against Discrimination (WLAD), and any other  
21 applicable law.” (emphasis added).  
22  
23  
24

1       26. Proclamation 21-14.2 likewise required that state agencies ***must***  
2       ***comply*** with the procedures required under the above-listed statutes  
3       and any other applicable laws when considering and deciding  
4       whether to provide accommodations.”

5  
6       27. Under both Title VII and WLAD, any government-imposed  
7       restrictions to constitutional rights must be narrowly tailored to  
8       further a compelling government interest. *Roman Catholic Diocese*  
9       *of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020).

10       28. The Department continuously and zealously enforced the vaccine  
11       mandate of the Proclamation, despite a plethora of admissions by  
12       government officials and scientists that the experimental vaccines  
13       did not stop transmission or infection of the virus, so that the  
14       mandate did not further the goal of stopping the spread of COVID-  
15       19.  
16

17       29. The Department demanded its employees be vaccinated pursuant to  
18       the Proclamation, or be terminated.

19  
20       30. Many employees of the Department, including Plaintiff, questioned  
21       Defendants regarding the known fact that the vaccine did not stop  
22       transmission or infection, in an attempt to keep their job. Dr.  
23  
24

Strandquist specifically addressed that problem in his letter to Defendant Long dated September 9, 2021.

31. As stated, by mid- 2021, several months before the Department forced Dr. Strandquist out, it had become clear that the experimental COVID-19 vaccines developed by Pfizer, Moderna and Johnson & Johnson did not prevent recipients from being infected with, or spreading, COVID-19.

32. Thus, unlike the polio or smallpox vaccines, the COVID-19 vaccines did not eliminate infection and could not end the pandemic.

33. Many studies confirmed the failure of the vaccine, including studies from the Centers for Disease Control (“CDC”), upon whom Defendants allegedly relied.

34. The only benefit of the COVID-19 vaccines, as even the government admits, is to protect an infected person from severe illness or death, and even that benefit is disputed, and clearly, if it exists, quickly wanes.

35. Defendants refused to acknowledge any information presented to them on this point by Plaintiff.



1 36. Plaintiff, after he applied for a religious exemption, was ridiculed,  
2 harassed, ostracized and degraded, despite a long career as a  
3 respected professional.

4 37. Having not accepted vaccination, Plaintiff was terminated from his  
5 employment by Defendants on or about October 21, 2021.

6 38. Plaintiff did not receive an individualized assessment or interactive  
7 dialogue to discuss accommodation options prior to the decision to  
8 terminate.

9 39. The failure to provide an individualized assessment through an  
10 interactive dialogue violated the Proclamation itself, as well as long-  
11 established constitutional requirements, Title VII, and WLAD.

12 40. Defendants never identified why Dr. Strandquist could not simply  
13 keep using the same methods he had successfully utilized  
14 throughout the pandemic to avoid infection.

15 41. The speed at which Plaintiff's exemption request was processed  
16 confirms that Defendants could not possibly have complied with  
17 federal and state law requirements for a transparent, interactive,  
18 individualized process of considering possible accommodation.  
19  
20  
21  
22  
23  
24

1 42. Plaintiff was told by Defendants that it allegedly conducted this  
2 required step simply by looking at his job description and surmising  
3 what his job entailed.

4 43. Plaintiff was denied a *Loudermill* hearing.

5 44. Defendants identified no undue hardship that prevented  
6 accommodation of Plaintiff.  
7

8 45. Plaintiff was told by Defendant Long that he posed a “significant  
9 risk of harm” in his unvaccinated state such that “no accommodation  
10 could be identified to eliminate or reduce the risk of infection” to his  
11 vaccinated co-workers or the public with which he might come into  
12 contact.  
13

14 46. Defendants refused to accommodate Plaintiff based on theoretical  
15 and speculative harm regarding that Plaintiff’s *potential* for public  
16 exposure, regardless of whether there had been any such public  
17 exposure in the past, and regardless of the fact that such hypothetical  
18 *potential* exposure could be avoided through the use of personal  
19 protective equipment (“PPE”).  
20

21 47. Defendants were aware at the time of termination of Plaintiff’s  
22 employment that the COVID-19 vaccines did not protect against  
23 infection and were therapeutic, at best.  
24

1 48. Defendants were told directly by Plaintiff that numerous well-  
2 regarded published studies concluded that the vaccines did not  
3 prevent infection, a fact which Defendants chose to ignore.

4 49. Defendants refused to consider allowing the use of PPE to  
5 accommodate Plaintiff, even though Plaintiff had already worked  
6 nearly 18 months successfully utilizing PPE to avoid infection or  
7 transmission of the disease.  
8

9 50. There were no COVID-19 infections which have been traced to Dr.  
10 Strandquist.  
11

12 51. Many other employees of the Department were also terminated at  
13 about the same time for refusing to accept vaccination with the  
14 experimental COVID-19 vaccines, without accommodation,  
15 individualized consideration, or *Loudermill* hearings.

16 52. Defendants failed to consider the effect its blanket termination  
17 policy would have on the services it could offer, staffing shortages,  
18 overtime, etc.  
19

20 53. Defendants created an undue burden on itself, creating a staffing  
21 crisis that continues today.

22 54. ESH specifically now faces a staffing crisis due to such  
23 terminations.  
24

1 55. In March 2022, the CEO of ESH acknowledged a “staffing crisis,”  
2 low morale, closure of entire wards, and record low number of  
3 employment applications.

4 56. Defendants denied accommodations to employees who sought  
5 religious exemptions from the vaccination requirement at a  
6 significantly higher rate than to employees who sought medical  
7 exemptions.  
8

9 57. Defendants also approved religious accommodations at a much  
10 higher rate for headquarters as opposed to the outlying areas. Of 336  
11 approved religious exemptions to eight outlying areas, not one  
12 accommodation was granted, suggesting a political component of  
13 granting accommodations.  
14

15 58. Defendants all operated under Governor Inslee’s Executive Order  
16 14-02, dated March 3, 2014, that encouraged telework and sought to  
17 increase the remote public service workforce to 40%.  
18

19 **FIRST CAUSE OF ACTION**  
20 **VIOLATION OF WASHINGTON LAW AGAINST DISCRIMINATION**  
21 **PERCEIVED PHYSICAL DISABILITY**

22 59. Plaintiff here realleges the allegations set forth above in this  
23 Complaint as if fully set forth herein.  
24

1 60. The Washington Law Against Discrimination prohibits  
2 discrimination in the workplace for actual or perceived disability.  
3 Wash. Rev. Code § 49.60.180; *Taylor v. Burlington Northern*  
4 *Railroad Holdings*, 193 Wash.2d 611 (2019) (en banc).

5  
6 61. WLAD’s definition of disability is broader than the definition in the  
7 ADA. *Pulcino v. Fed. Express Corp.*, 141 Wash.2d 629, 641 n.3  
8 (2000).

9 62. Under WLAD, a disability is defined as “a sensory, mental, or  
10 physical impairment that . . . (i) [i]s medically cognizable or  
11 diagnosable; or (ii) [e]xists as a record or history; or (iii) [i]s  
12 perceived to exist whether or not it exists in fact.” Wash. Rev. Code  
13 § 49.60.040(7).

14  
15 63. Disability is also an impairment that “affects one or more of the . . .  
16 body systems.” Wash. Rev. Code § 49.60.040.

17 64. The legislature intended to adopt a broad and expansive definition  
18 of “disability” in order to protect against discrimination. *Taylor*, 193  
19 Wash.2d at 618.

20  
21 65. The EEOC has interpreted these rules to include protection for an  
22 actual or perceived immunological condition.  
23  
24

1 66. Defendants perceived that Plaintiff has an impairment and/or  
2 disability that made him present a “significant risk of harm.”

3 67. Defendants discharged Plaintiff due to his perceived physical  
4 disability of not having what they wrongly considered the best  
5 physiological protection against COVID-19.  
6

7 68. Defendants did not explore any available reasonable alternatives for  
8 accommodating Plaintiffs to resolve the conflict, as required under  
9 WLAD. *Suarez v State*, 2022 WL 4351109 (Sept. 20, 2022).

10 69. Defendants terminated Plaintiff due to his perceived physical  
11 disability.  
12

13 70. Defendants’ actions proximately caused Plaintiff to suffer damages  
14 in an amount to be proven at trial, including at least lost wages and  
15 benefits.  
16

17 **SECOND CAUSE OF ACTION**  
**DEPRIVATION OF PRIVACY, WA CONST. ART. I, SEC. 7**

18 71. Plaintiff here realleges the allegations set forth above in this  
19 Complaint as if fully set forth herein.

20 72. No person shall be disturbed in his private affairs, or his home  
21 invaded, without authority of law. Wash. Const. art. I, § 7.  
22

23 73. This constitutional right to privacy includes the right to autonomous  
24 decision-making and autonomy over one’s medical care and

1 includes the right to refuse treatment. *See, e.g., In re Welfare of*  
2 *Colyer*, 99 Wash.2d 114, 119-22, 660 P.2d 738 (1983); *see also*  
3 Wash. Rev. Code § 7.70.050.

4 74. Bodily autonomy is a critical component of the constitutional right  
5 of privacy.

6 75. The decision to suffer the battery of a vaccination is also a private  
7 affair which further impacts a citizen's bodily integrity.

8 76. The Washington State privacy protections under Art. I, § 7, are  
9 greater than the U.S. Constitutional privacy rights under the Fourth  
10 Amendment, as Section 7 guarantees "an individual's right to  
11 privacy *with no express limitations.*" *Robinson v. City of Seattle*,  
12 102 Wash. App. 795 (2000) (emphasis added).

13 77. Plaintiff has the right to make the private, autonomous decision  
14 whether to receive a COVID-19 vaccine and whether to disclose  
15 their personal medical history – including whether they have been  
16 vaccinated for COVID-19.

17 78. Despite these rights, Defendants will continue to violate the privacy  
18 rights of every individual seeking employment with DSHS and  
19 ESH.  
20  
21  
22  
23  
24

1 79. Despite these rights, Defendants will continue to refuse  
2 reemployment to Plaintiff in violation of his rights to autonomous  
3 decision-making.

4 80. Plaintiff has been deprived of his right to privacy by the actions of  
5 Defendants.

6 81. The right to privacy is protected under Wash. Const. art. I, § 7 as a  
7 fundamental right which can only be infringed upon by a law which  
8 satisfies a strict scrutiny analysis, that is, which furthers a  
9 compelling state interest and is narrowly tailored using the least  
10 restrictive means therefor.

11 82. Defendants cannot meet that test.

12 83. Defendants alleged interest was stopping the spread of COVID-19.

13 84. However, the vaccines do not stop infection or transmission, and the  
14 vaccinated and unvaccinated alike spread COVID-19.

15 85. The termination of religious objectors therefore did not further the  
16 alleged interest of Defendants. Defendants knew at the time they  
17 terminated Dr. Strandquist's employment that the vaccines were  
18 ineffective towards their supposed goal, but Defendants  
19 purposefully chose to continue with the wrongful termination of  
20 religious objectors such as Plaintiff.



1 86. Even if the vaccine had been effective in that regard, Defendants  
2 failed to utilize a narrowly tailored method to control the spread of  
3 the virus, going directly to termination without considering readily  
4 available, less restrictive means towards the alleged objective.

5  
6 87. Defendants failed to utilize PPE, testing, telework, or natural  
7 immunity in stopping the spread of COVID-19.

8 88. Defendants' actions fail strict scrutiny.

9 89. Additionally, Plaintiff has been deprived of his right to privacy  
10 through the invasive questionnaire required by Defendants as part  
11 of his religious exemption request.

12  
13 90. Defendants' actions proximately caused Plaintiff to suffer damages  
14 in an amount to be proven at trial.

15 **THIRD CAUSE OF ACTION**  
16 **DEPRIVATION OF LIFE, LIBERTY, OR PROPERTY, WASH. CONST.**  
17 **ART. 1, SEC. 3.**

18 91. Plaintiff here realleges the allegations set forth above in this  
19 Complaint as if fully set forth herein.

20 92. No person shall be deprived of life, liberty, or property, without due  
21 process of law. Wash. Const. art. I, § 3.

22 93. Plaintiff suffered loss of pension rights and benefits, both actual and  
23 future, as a direct result of the actions of Defendants.

- 1 94. Public employees have a property interest in their pensions, which  
 2 cannot be altered to the material disadvantage of the employee.  
 3 *Eagan v. Spellman*, 90 Wash.2d 248 (1978).  
 4
- 5 95. Public employees have a property interest in their employment,  
 6 cannot be terminated without “just cause,” and cannot be terminated  
 7 without due process, which includes and requires a right to a  
 8 hearing. *Board of Regents v. Roth*, 408 U.S. at 564 (1972);  
 9 *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 105 (1985).  
 10
- 11 96. Defendants’ actions caused Plaintiff to suffer damages to be proven  
 12 at trial, such actions being the actual and proximate cause of those  
 13 damages.

14 **FOURTH CAUSE OF ACTION**  
 15 **VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE**  
 16 **WA CONST. ART. I, SEC. 3**

- 17 97. Wash. Const. art. I, § 3, states that no person shall be deprived of  
 18 life, liberty, or property without due process of law.  
 19
- 20 98. If a law neither burdens a fundamental right nor targets a suspect  
 21 class, it will be upheld so long as it bears a rational relation to some  
 22 legitimate end. *Romer v. Evans*, 517 U.S. 620, 631 (1996); *Nielsen*  
 23 *v. Washington State Dept. of Licensing*, 177 Wash. App.45 (2013).  
 24

1 99. There was no rational relation to some legitimate government end  
2 because the action taken – termination of the unvaccinated – did not  
3 further the interest of reducing the spread of COVID-19 given that  
4 the vaccinated and the unvaccinated both contract and transmit  
5 COVID-19.  
6

7 100. In fact, people who are vaccinated for COVID-19 are more likely to  
8 become infected with and spread COVID-19 than are people who  
9 have recovered from COVID-19 and have natural immunity.

10 101. Defendants have treated different classes of people unequally, with  
11 the protected class of religious objectors not coincidentally  
12 adversely impacted by the actions of Defendants.  
13

14 102. The actions of Defendants, on its face and as applied, was not  
15 rationally related to a legitimate end.

16 103. The actions of Defendants have caused, are causing, and will  
17 continue to cause irreparable harm and actual and undue hardship to  
18 Plaintiff.  
19

20 104. Defendants' actions caused Plaintiff to suffer damages to be proven  
21 at trial, such actions being the actual and proximate cause of those  
22 damages.  
23

## 24 **FIFTH CAUSE OF ACTION**

**DEPRIVATION OF RELIGIOUS FREEDOM,  
WA CONST. ART. I, SEC. 11.**

105. Plaintiff here realleges the allegations set forth above in this Complaint as if fully set forth herein.

106. Defendants' vaccination mandate and the requirement for the religious exemption questionnaire are contrary to and transgress Wash. Const. art I, § 11, which states, "Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion . . . No religious qualification shall be required for any public office or employment."

107. Plaintiff's absolute right to religious freedom has been infringed.

108. Defendants' vaccination mandate, in conjunction with its religious exemption questionnaire, by design, intent, and by consequences, result in both a religious qualification being required for public office or employment, and transgress the Washington State Constitutions guarantee of absolute freedom of conscious in all matters of religious sentiment, belief and worship, and result in an unauthorized molestation or disturbance of the Plaintiffs' person.

1 109. Defendants were aware at the time of termination that Plaintiff and  
2 other religious objectors to the vaccination mandate were being  
3 treated differently than similarly situated secular objectors.

4  
5 110. Defendants' actions proximately caused Plaintiff to suffer damages  
6 in an amount to be proven at trial.

7 **SIXTH CAUSE OF ACTION**  
8 **WAGE THEFT**

9 111. Plaintiff here realleges the allegations set forth above in this  
10 Complaint.

11 112. Defendants have, willfully and with the intent to deprive, failed to  
12 pay wages to the Plaintiff since the date of his wrongful termination.

13 113. Defendants have authority and control over the employment status  
14 and payment of wages to Plaintiff.

15 114. Plaintiff has not knowingly submitted to the deprivation of wages.

16 115. Defendants' actions caused Plaintiff to suffer damages by the  
17 deprivation of wages and other benefits, including pensions.

18  
19 116. Defendants' actions proximately caused damages to Plaintiff in an  
20 amount to be proven at trial.

21 **SEVENTH CAUSE OF ACTION**  
22 **BREACH OF CONTRACT**

1 117. Plaintiff here realleges the allegations set forth above in this  
2 Complaint.

3 118. The Proclamation requires compliance with applicable collective  
4 bargaining agreements and is thus subordinated to them.

5 119. The provisions of Washington law regarding collective bargaining  
6 agreements, in case of conflict, control and are superior to “any other  
7 statute, ordinance, rule, or regulation of any public employer.”  
8 Wash. Rev. Code § 41.56.905.

9 120. There existed a binding contract between the Plaintiff and the  
10 Department that permitted termination only for cause.

11 121. Plaintiff substantially performed his obligations under this contract.

12 122. Defendants breached its contract with Plaintiff by terminating him  
13 without just cause.

14 123. Defendants’ wrongful termination of Plaintiff was based on a new  
15 condition of employment that was not part of Plaintiffs’ contract  
16 when hired.

17 124. Defendants’ actions violated Plaintiff’s right to continued  
18 employment by terminating them without “just cause” and by  
19 unilaterally imposing a new condition to employment – vaccination  
20 – without consideration.  
21  
22  
23  
24

1 125. Defendants' action also violated Plaintiff's pension rights, likewise  
2 established by contract, despite Plaintiff having fully performed  
3 their obligations under this contract.

4 126. Defendants' actions caused a substantial change to the pension  
5 rights of Plaintiff under Wash. Rev. Code 41.06.

6 127. Plaintiff has been damaged by this breach of contract in that he has  
7 suffered extraordinary financial loss as a result of the substantial  
8 change in his pension rights.  
9

10 **EIGHTH CAUSE OF ACTION**  
11 **VIOLATION OF THE WASHINGTON**  
12 **LAW AGAINST DISCRIMINATION**  
13 **FAILURE TO ACCOMMODATE**

14 128. Plaintiff here realleges the allegations set forth above in this  
15 Complaint.

16 129. Plaintiff was found to have a sincerely held religious beliefs and was  
17 granted an exemption.

18 130. Plaintiff made continued requests for accommodations but was shut  
19 down without discussion.

20 131. Defendants refused to offer any of the accommodations proposed by  
21 Plaintiff, including masking, working remotely as his predecessor  
22 had done, and following the same accommodations that kept him  
23 and his patients safe during the pandemic.  
24

1 132. Defendants offered only reassignment to a job for which Dr.  
2 Strandquist was not qualified, with a considerable cut in salary.

3 133. The result was that Plaintiff was forced to disregard his sincerely  
4 held religious beliefs, or a significant decrease his well-earned  
5 position, seniority, and pension.  
6

7 134. Strict scrutiny applies to governmental action which impairs  
8 fundamental rights.

9 135. Plaintiff has been damaged by being forced to elect between his  
10 livelihood and his sincerely held religious beliefs.  
11

12 **NINTH CAUSE OF ACTION**  
13 **VIOLATION OF THE WASHINGTON**  
14 **LAW AGAINST DISCRIMINATION**  
15 **DISPARATE IMPACT**

16 136. Plaintiff here realleges the allegations set forth above in this  
17 Complaint.

18 137. Even to the extent that Defendants' policy is facially neutral, it  
19 falls more harshly upon those within a protected class, namely,  
20 adherents to the Christian faith. Defendant determined Plaintiff's  
21 faith is a sincerely-held belief and acknowledged his religious  
22 exemption from the vaccine.

23 138. Plaintiff has been damaged by the disparate impact of the  
24 Defendants' policy.



**TENTH CAUSE OF ACTION  
RIGHT TO BE FREE FROM ARBITRARY AND CAPRICIOUS  
ACTION**

139. Plaintiff here realleges the allegations set forth above in this Complaint as if fully set forth herein.

140. Plaintiff has a right to be free from arbitrary and capricious administrative action. *Pierce County Sheriff v. Civil Service Comm’n of Pierce County*, 98 Wash.2d 690 (1983).

141. The Defendant knew the vaccines did not stop COVID-19 transmission.

142. Defendant’s actions were arbitrary and capricious because it improperly rejected all reasonable alternatives to vaccination. *See State of Missouri et al. v. Biden, et al.*, 571 F. Supp. 3d 1079, 1095 (E.D. Mo. 2021), *vacated and remanded on other grounds*, 2022 WL 1093036 (8th Cir. Apr. 11, 2022).

143. Defendant rejected natural immunity, testing, masking, and social distancing without any evidence that such measures would not be equally effective at stopping transmission—if not more effective—than the failed vaccines.

144. The Defendant’s actions failed to “ensure there exists a rational connection between the facts found and the choice made.” *Missouri*,

571 F. Supp. 3d. at 1093 (quoting *Motor Vehicle Mfrs. Assn. of U.S., Inc. v. State Farm Mut. Auto Ins. Co.*, 436 U.S. 29, 43 (1983)).

145. Defendant’s “path of analysis appears misguided and the inferences it produced are questionable.” *Missouri*, 571 F. Supp. 3d at 1093 (quoting *State Farm*, 436 U.S. at 43).

146. The Defendant’s conclusions that vaccination is a more effective infection control measure is inconsistent with its admission that the vaccine does not stop transmissibility of COVID by the vaccinated. *See State Farm*, 436 U.S. at 43 (finding agency action arbitrary and capricious if the agency explained its decision in a way that runs counter to evidence before the agency).

147. Defendant’s actions were further arbitrary and capricious in that it terminated healthy objectors in favor of the vaccinated, and then instituted a policy whereby Defendant relaxed the standards for the vaccinated to return to work, even when still symptomatic with COVID-19 symptoms.

148. Defendant’s actions proximately caused Plaintiff to suffer damages, which Plaintiff is entitled to recover, in an amount to be proven at trial, including at least lost wages and benefits.

### PRAYER FOR RELIEF

1 WHEREFORE, Plaintiff prays for the following relief against the Defendants:

- 2 1. Judgment against Defendants on all claims.
- 3 2. Double damages for lost wages pursuant to Wash. Rev. Code § 49.52.070.
- 4 3. Attorney fees as authorized by State and Federal statute.
- 5 4. Such other and further relief that is just and equitable.
- 6

7 DATED: January 27, 2023.

8 **ARNOLD & JACOBOWITZ PLLC**

9 /s/ Nathan J. Arnold

10 Nathan J. Arnold  
11 WSBA No. 45356  
8201 164th Ave. NE, Ste. 200  
Redmond, WA 98052  
(206) 799-4221  
Nathan@CAJlawyers.com  
12 Counsel for Plaintiff

13

14

15

16

17

18

19

20

21

22

23

24